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SUBJECT: CYPRUS: EMBASSY-SPONSORED IPR WORKSHOP BRINGS GOVERNMENT  
AND PRIVATE SECTOR TOGETHER TO FIGHT PIRACY

REFS: A) NICOSIA 153, B) 06 NICOSIA 245, C) 06 NICOSIA 755, D) 06

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(U) This cable is sensitive but unclassified. Please protect  
accordingly.

¶1. (U) Summary: On March 29, over 60 GoC officials and Cypriot business representatives discussed ways to improve enforcement of intellectual property rights (IPR) at an all-day seminar organized by the Economic/Commercial section and the Cyprus American Business Association. International speakers included representatives of the music, software and textbook industries from Rome, Beirut and Athens, respectively. Other participants represented the Cypriot merchandise and entertainment industry, as well as officials from the Police, Customs, Ministry of Commerce and Parliament. The seminar resulted in specific recommendations on changes to GoC legislation and ways to increase cooperation between the Cypriot Police, Customs and the Consumer Protection Service. Septel will discuss a separate seminar held March 30 in the Turkish Cypriot community. End summary.

#### Workshop Brings Public and Private Sectors Together

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¶2. (U) On March 29, the Economic/Commercial section and the Cyprus American Business Association organized a one-day workshop on IPR issues in the Government-controlled area of Cyprus. The seminar attracted over 60 participants from the Police, Customs, Ministry of Commerce, Parliament, and private sector. The workshop offered a forum for constructive dialog between government authorities and industry representatives, and helped identify practical ways to improve IPR enforcement. The workshop also generated some positive publicity and highlighted the fact that piracy hurts Cypriot companies and the Cypriot consumer. The Embassy co-organized similar seminars in November 2005 (ref e) and April 2004 (Ref f).

¶3. (U) The U.S. Ambassador, the President of the Cyprus Chamber of Commerce and Industry Manthos Mavrommatis, and Cyprus's Official Receiver and Registrar Spyros Kokkinos all delivered opening remarks highlighting the benefits of strong IPR enforcement. This was followed by presentations from the Federazione Industria Musicale Italiana (FIMI), the Business Software Alliance (BSA), the

international textbook industry, the Cypriot Police, the Cypriot Customs and a very lively and constructive general discussion.

¶4. (SBU) Participants reported that despite significant progress on IPR enforcement in Cyprus -- including introduction of EU-compatible legislation, an excellent track record from Customs, and increased Police raids -- problems remained. The level of piracy of CD, DVDs, and software, while declining, remained significant. Cyprus was unprepared to deal with internet piracy which would grow as a problem as more Cypriots got access to broadband services. FIMI representative Luca Vespignani noted that, on average, 20 percent of those who have a broadband connection worldwide are involved in illegal file sharing.

¶5. (SBU) Wendy Copage of Pearson Education reported that in the U.S. and UK for every 100 students, publishers sell on average 70 new textbooks to students and another five to ten to the library. In Cyprus, however, publishers were selling only 10 new books to students and none to the library as copy shops were openly selling black and white xeroxed versions of these books for only a fraction of the price. Although the pirates acted openly, and it was easy to see that the books were counterfeit, prosecution of textbook pirates was rare. Head of the Police IPR unit Nicos Chrystostomou promised to look into this problem.

¶6. (SBU) A common theme of the discussion was frustration with the lenient penalties imposed by judges. While legislation gave judges the right to impose significant fines and even imprisonment, judges generally imposed only symbolic fines, which pirates could easily write off as the price of doing business. These low fines were countering whatever deterrent effect the increased police and customs raids were having. Copage noted that if even one judge imposed a custodial sentence on one pirate -- even just for a few days -- the deterrent effect would be enormous.

#### Police Action

¶7. (SBU) The police spearheads the GOC's IPR enforcement efforts. A recent amendment to Cyprus' main anti-piracy legislation (Law 59 of 1976) on July 28, 2006, helps the police in its anti piracy efforts. The new law harmonizes Cyprus fully with EU directives 2001/84/EC and 2004/48/EC and provides deterrent penalties of up to four years in prison and/or a fine of up to CP 35,000 (USD 77,000).

¶8. (SBU) Under Cypriot legislation, the burden of proof lies with the legitimate rights owner to prove their ownership of each art work fixed on a particular CD or DVD. Similarly, the Cypriot law does not allow the sampling of evidence. In cases involving the seizure of hundreds or thousands of pirated items (particularly, CDs and DVDs), the authorities' task of establishing authenticity remains very arduous as every single track must be checked and documented.

¶9. (SBU) To address this problem, the Cyprus Police relies increasingly on close cooperation with local IPR experts from the private sector, including the International Federation of the Phonographic Industry (IFPI), the Performing Rights Society (PRS), and the Cyprus Federation Against Copyright Theft (CYFACT). To help with this, IFPI Greece hired in 2006 a full time local Cypriot representative. To date, the private sector has also conducted IPR training for over 256 police officers. In fact, IPR training is now mandatory for all new police cadets.

¶10. (SBU) Since the establishment of the Police's Unit for Countering IPR Theft and Illegal Gambling in October 2004, the Police have filed 299 reports and seized 320,538 exhibits as evidence.

#### Customs Action

¶11. (SBU) Iacovos Antoniou of the Department of Customs noted that adoption of a new Customs law (Law 133(I) of 2006, which came into effect on October 20, 2006) had strengthened Customs' role in fighting IPR piracy. This new law harmonizes Cyprus fully with EU regulations 1383/2003 and 1891/2004 by amending earlier Cypriot legislation. These amendments provide steeper and recurring fines for pirates and introduce a "name and shame" policy for pirates in the Official Gazette. The new law also enables Customs to seize

imported counterfeit products from the domestic market including shops or warehouses. Previously, Customs could only seize items at the point of entry into the country. Cyprus is only the second EU country that has given Customs such increased authority. Customs, however, has no authority to seize pirated items produced domestically.

¶12. (SBU) Customs has put the new law to good use, engaging in more than 15 raids and significant seizures of pirated material since October 2006. These cases are currently pending before the court. During 2006, Customs engaged in 114 piracy raids, seizing thousands of pirated articles such as clothes, shoes, bags, cosmetics, toys, DVDs, CDs, cigarettes, pills, watches, electric appliances and mobile accessories bearing well known trade marks.

#### Reversal of Burden of Proof

¶13. (SBU) In July 2006, the House Legal Affairs Committee failed to act on Police-initiated amendments that would have allowed sampling of evidence and reversed the burden of proof in many IPR cases (i.e., defendants would be required to demonstrate that their goods were legitimate rather than the Police having to show they were counterfeit -- ref D). As a result of the Parliament's inaction, the amendment is still in limbo. Workshop participants agreed to lobby the House Legal Affairs Committee to support these amendments so as to greatly strengthen the Police's ability to control DVD, CD, and other types of piracy.

#### Consumer Protection Service Woefully Undermanned

¶14. (SBU) While most participants recognized the significant contributions of Customs and the Police, several participants noted the continued poor performance on IPR of the Commerce Ministry's

Consumer Protection Service (CPU). The Cypriot Trading Standards Law gives the CPS a significant role in battling locally-produced pirated items, which by law Cypriot customs cannot touch. Nevertheless, due to other competing priorities and lack of staff, the CPS has chosen not to make IPR a priority. CPU Officer Theodoros Constantinou defended this decision noting that the Commerce Ministry needed around 300 people to fulfill all its responsibilities. Of the 188 positions that it in theory is authorized to have, 84 positions are currently vacant due to the government-wide hiring freeze.

¶15. (SBU) Discussion then turned to how the CPS's IPR responsibilities under the Trading Standards Law could be transferred to the Police and Customs or even the private sector. One Paphos Policeman noted his office had tried consulting the CPS to verify that suspected goods were counterfeit only to have to wait over a year for any response. Customs noted that it worked directly with the private sector to determine the authenticity of goods. It had developed a searchable database of all goods subject to piracy in Cyprus over the past seven years, with the contact info of the local representative of the appropriate rights holders. Customs offered to make this available to both the Police and the CPS. The Police also offered to help the CPS learn why a judge recently refused to hear its testimony. The three services also promised to explore whether the CPS would be able to appoint the Police or Customs to testify on its behalf or undertake investigations under the CPS's purview.

#### Piracy Across Green Line

¶16. (SBU) Leading IPR lawyer Achilleas Demetriades and several other participants noted the growing problem of counterfeit materials

entering the government-controlled area from the Turkish Cypriot Community. Senior Customs Officer Iacovos Antoniou noted that beginning in August 2004, the EU Green Line Regulation allowed any individual to cross the Green Line carrying up to Euro 135 of goods purchased on the other side. Since then, Customs had identified hundreds of cases of individuals entering the government-controlled area with counterfeit goods. Customs Officer Mari Charalambous-Kliriotou alleged that several people have in effect made smuggling cigarettes and pirated goods their career. A single person can carry three pairs of fake Levis jeans and 10 fake Dior blouses and still fall within the Euro 135 personal allowance.

Furthermore, if the goods are made in the Turkish Cypriot community and not imported -- as many counterfeit clothing items are -- Customs has no legal right to confiscate these goods, as this falls to the undermanned Consumer Protection Unit.

¶17. (SBU) Several of the participants suggested that Cyprus should lobby the EU to lower the Euro 135 limit in an effort to reduce the flow of pirated items from the north. We pushed back noting that this would have the adverse effect of also limiting legitimate trade. Supporting increased trade between the two communities was a declared goal of both the GoC and the international community. Other solutions needed to be found including increased education within the Turkish Cypriot Community and encouraging the European Commission to include IPR as a priority within its Euro 259 million assistance program. Nevertheless, it is clear that unless the Turkish Cypriot authorities take steps to address the lack of IPR protection in the north, Greek Cypriot pressure to close the Green Line to trade is likely to continue to increase.

#### Achievements

¶18. (SBU) The seminar:

- fostered increased cooperation between the public and private sectors and among the three government agencies primarily responsible for IPR enforcement. For example, the Police often waited months for guidance from the severely undermanned Consumer Protection Unit on whether a good was counterfeit. To solve this, Customs will now make available to the Police its database of local representatives of trademark holders, enabling the Police to immediately turn to the public sector for help in identifying suspected pirated goods.

- identified recommended changes to existing IPR legislation including allowing sampling of evidence and reversing the burden of proof and urged all interested parties to lobby for their adoption. These changes were presented to the Parliament by the Police based upon a similar recommendation that emerged from the November 2005 seminar. The Parliament, however, has yet to act on the Police's proposal. A key parliamentarian present pledged to work for the bill's passage.

- spurred discussions between the undermanned Consumer Protection Service and the Police and Customs on how the CPS may be able to transfer some of its IPR responsibilities to the other institutions.

- highlighted the problem of relatively weak penalties being imposed by judges and stressed the need to better educate the judiciary and the general public on the negative effects of IPR piracy on society as a whole.

- raised public consciousness of IPR enforcement issues both among the seminar participants and the wider society through media coverage of the event.

- highlighted the problem of textbook piracy; the police promised to look into this issue;

- highlighted the growing threat of internet piracy as more Cypriots get broadband internet access.

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